IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 21741 of 2004

Between:

V.Nagaraju S/o.Ramanna
Aravindnagar Anantapur District.

..... PETITIONER

AND

1 The Collector and District Magistrate, Anantapur.
2 The Principal Secretary for Home Secretaraiat, Hyderabad.
3 The Superintendent, Central Prison Cherlapalli Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Habeas Corpus under Article 226 of Constitution of India directing the respondents to produce Soruvu Niva Sekhar S/o.Anjaneyulu now detained in Central Prison, Cherlapalli before this Hon'ble Court and may be ordered to release forthwith declaring that his detention is illegal and void.

Counsel for the Petitioner: MR.T.PRADYUMNA KUMAR REDDY

Counsel for the Respondent No.1 to 3: THE ADVOCATE GENERAL

The Court, at the stage of admission, made the following:

ORAL ORDER: PER: The Hon'ble Mr. Justice Bilal Nazki)

This Habeas Corpus petition is filed by a nephew of the detenue viz., Soruvu Nija Sekhar, who has been detained on orders of the Collector and District Magistrate, Anantapur, passed in terms of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act). The grounds of detention have been served on the detenue. The order of the detention has been challenged on various grounds. It is contended by the learned counsel for the petitioner that the first ground is stale in point of time as it refers to a case pertaining to the year 1998 registered in crime No. 97 of 1998 of Mudigubba Police Station. The other two grounds pertain to the years 1999 and 2000. It is also submitted by the learned counsel for the petitioner that the crime No. 97 of 1998 is registered under the provisions of the Explosive Substances Act. Therefore, the detenue could not be termed as 'Goonda'. This Court has consistently held that in order to term a person as 'Goonda', he must be a habitual offender and should have committed offences under Chapters XVI, XVII and XXII of the Indian Penal Code, 1860 in terms of Section 2 (G) of the Act. Since three of the grounds are stale and; one case on the basis of which the District Magistrate has passed the order of detention, pertains to an offence under the Explosives Substance Act, the order of detention cannot be upheld. The order of detention is quashed. The respondents are directed to release the detenue from custody forthwith, if not required in any other case. The writ petition is accordingly allowed. No costs.

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BILAL NAZKI, J

Dt. 13-12-2004

Pvks/*

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DR. G. YETHIRAJULU, J

To

1 The Collector and District Magistrate, Anantapur.
2 The Principal Secretary for Home, Secretaraiat, Hyderabad.
3 The Superintendent, Central Prison Cherlapalli Ranga Reddy District.

4.2CCs to the Advocate General, A.P. High Court Buildings, Hyderabad (OUT).

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